

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

WELLS FARGO BANK, N.A., f/k/a
Wells Fargo Home Mortgage,
Inc.,

08-CV-221-AC

ORDER

Plaintiff,

v.

UNITED STATES OF AMERICA by
and through the INTERNAL
REVENUE SERVICE,

Defendant.

BROWN, Judge.

Magistrate Judge John V. Acosta issued Findings and Recommendation (#26) on August 14, 2008, in which he recommended the Court grant Defendant's Motion to Dismiss (#8) and deny Plaintiff's Motion for Summary Judgment (#9). Plaintiff filed timely Objections to the Findings and Recommendation. The matter

is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988).

In its Objections, Plaintiff reiterates the arguments contained in its Response to Defendant's Motion to Dismiss and stated at oral argument. This Court has carefully considered Plaintiff's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Acosta's Findings and Recommendation (#26), **GRANTS** Defendant's Motion to Dismiss (#8), and **DENIES** Plaintiff's Motion for Summary Judgment (#9). The Court declines to rule on Plaintiff's request to file an amended complaint contained in its Objections because Plaintiff's formal Motion for Leave to File an Amended Complaint is currently

pending before Magistrate Judge Acosta.

IT IS SO ORDERED.

DATED this 14th day of October, 2008.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge